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October 13, 2008

Via E-mail ([TNaicker@orrick.com](mailto:TNaicker@orrick.com))  
and U.S. Mail

Tina L. Naicker, Esq.  
Orrick, Herrington & Sutcliffe LLP  
1000 Marsh Road  
Menlo Park, CA 94025-1015

**Re:** *Facebook, Inc. v. StudiVZ*

Dear Ms. Naicker:

In your October 9, 2008 letter, you asked me to let you know if anything you wrote was incorrect or inaccurate. We believe that your letter was incorrect in the following respects:

1. You wrote that “[t]his discovery, except with respect to consumer or user confusion, all relates to personal jurisdiction issues.” That is not correct. Your list of discovery topics includes issues that have nothing to do with personal jurisdiction. While we have offered (and hereby offer again) to meet and confer about the appropriate scope of personal jurisdiction discovery once the parameters of any motions to dismiss are known, your list is manifestly overbroad under any hypothetical personal jurisdiction motion.
2. We believe your proposed discovery plan is premature. As I said during our call, discovery into the merits of the case should be stayed pending the resolution of any motions to dismiss for lack of personal jurisdiction and/or *forum non conveniens*. You told us that Facebook will not agree to stay discovery. We responded by saying that defendants will file a motion for protective order seeking a stay of all non-jurisdiction/venue discovery until the case is

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at issue. Given that we do not know whether the case will *ever* be at issue, the time for creating a discovery schedule is not yet ripe.

Very truly yours,

  
Stephen S. Smith

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